S.B. CIVIL MISC.(ARBITRATION) APPLICATION NO.72/2005

(M/s Gordhan Ram Choudhary. **Vs**. State of Raj. & Ors.)

Date : 26.05.2006

PRESENT

HON'BLE JUSTICE MR. RAJESH BALIA

Mr. N.S. Rajpurohit for the applicant.
Mr. L.R. Upadhyay, Dy. Government Advocate.

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This application has been filed under Section 11 of Arbitration and Conciliation Act, 1996 for appointment of the Arbitrator in terms of the agreement executed between the parties.

The respondents have filed reply stating that the applicant was asked to submit his claim vide letter dated 11.4.2005 so that it can be processed. From the record, it appears that the petitioner did submit his claim and made a request for payment which was alleged to have been wrongfully rejected by the respondents after completion of the work vide Annex.7 dated 30th May, 2005. It appears that after the rejection of the claim submitted by the petitioner through notice dated 16.5.2005 in which it was brought to the notice of the respondents that in case the demand is not made good or disputed, the dispute is liable to be referred to the Arbitrator. The petitioner had not served any notice

calling upon the respondents to appoint Arbitrator. In that view, the application is premature.

Accordingly, this application is rejected. However, it will not preclude the applicant, from making demand for appointment of an Arbitrator and refer the dispute to him about his claim or in case his application is rejected from making fresh application under Section 11 for appointment of Arbitrator in terms of the arbitration agreement.

[RAJESH BALIA], J.

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